UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte: THERON TOCK and SAMPATH SRINIVAS

Application No. 09/706,297

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U.S. PATENT AND TRADEMARK OFFICE BOARD OF PATENT APPEALS AND INTERFERENCES

ORDER RETURNING UNDOCKETED APPEAL

The Board of Patent Appeals and Interferences (Board) electronically received this application on January 17, 2007. The application is not ready for review and consideration by the Board for the reason(s) noted below. Accordingly, the application is herewith being returned to the Examiner to take action consistent with the guidance provided by this order.

EXAMINER'S ANSWER

On July 26, 2006, an Examiner's Answer was mailed. However, the Examiner's Answer does not comply with § 1207.02 of the Manual of Patent Examining Procedure (MPEP). Specifically, in the "Evidence Relied Upon," section 8 (pg. 2, last paragraph), the Examiner indicated that "[n]o evidence is relied upon by the Examiner in the rejection of the claims under appeal." However, the section entitled "Grounds of Rejection" (sec. 9, pg. 3, ln. 14 and pg. 7, ln. 16) reveals that reference to Pettersen (Patent No. 6,826,594) and Delph (6,353,934) were applied to the statement of rejections. In accordance with MPEP § 1207.02, the "Evidence

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Relied Upon" (section 8) should include:

(8) Evidence Relied Upon

A listing of evidence relied on (e.g., patents, publications, admitted prior art), and in the case of non-patent references, the relevant page or pages.

To remedy this and before further review, the Examiner must mail a PTOL-90 that will include in the amended Evidence Relied Upon section, the list of references mentioned in the statement of rejections. Appropriate correction is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner for appropriate action on the following:

- 1) issue and mail a PTOL-90 citing the missing references listed under the Evidence Relied Upon section, paragraph (8); and
 - 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS AND INTERFERENCES

PÁTRICK J. NOLAN

Deputy Chief Appeals Administrator

(571) 272-9797

PJN/dpv

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Harrity & Synder, LLP 11350 Random Hills Road Suite 600 Fairfax, VA 22030